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A  
L E T T E R  
TO THE  
E A R L  
O F  
A B I N G D O N:  
DISCUSSING A  
P O S I T I O N  
RELATIVE TO A  
Fundamental Right of the Constitution:

Contained in his LORDSHIP's  
T H O U G H T S  
ON THE  
L E T T E R  
O F  
EDMUND BURKE, Esq.  
TO THE  
SHERIFFS of BRISTOL.

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By JOHN CARTWRIGHT.

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L O N D O N:  
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TO THE  
EARL  
OF  
ABINGDON.

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MY LORD,

THE great knowledge and generous warmth with which your lordship has defended our much-injured constitution, in your late pamphlet, as well as your frank and unmysterious manner of treating the great truths which uphold it, give me a natural confidence that, provided your lordship shall have inadvertently fallen into any error on the subject, you will be very far from being unwilling to be set right. I think there is one error in your

lordship's doctrine: and I esteem it a material one. I mean with regard to the position, that the colonists have not a right to *freedom in trade*. (P. 56, 57.\* ) We must not impose upon ourselves by modes of speech; which, though current, are improper and delusive: and I am happy to find your lordship so much upon your guard against their tendency to mislead mankind, as you express yourself in p. 15.

Your lordship very properly asks (p. 52.) " whether the Americans are British subjects or not?" I am obliged to answer, that, for their being so, we have no better authority than the common licence of unguarded speech; which is not understood to be decisive in serious questions; but that, in strictness of language, they are not, or rather *were* not, *British*,

\* My references are to the fourth edition.

British, but *American*, subjects.† *Descent, relationship, and amity*, seem to me to be quite distinct things from *sovereignty* and *subjection*; *confidence, partiality, and acquiescence*, from *duty and obedience*. They were, as your lordship observes, (p. 65.) only the subjects of the *king*, not of the British *parliament*; for they had legislatures of their own. Their allegiance to the *king* did not make them *British subjects*; for, were that so, then would the Hanoverians be *British subjects*. But the truth is, that the people of Hanover are his *Hanoverian subjects*, the people of Great-Britain his *British subjects*, the people of Ireland his *Irish subjects*; and so, in like manner, the people of America, were his *American subjects*.‡ But your lordship yourself hath

† I should rather have termed them *British American subjects*, but for the tendency in the repetition of the word *British* to abate the force of the contradistinction.

‡ I do not mean to insinuate that Great Britain's connections with British America and with Hanover were

hath proved this for me. The *allegiance* of the Americans, as your lordship well distinguishes, (p. 16, 17.) was due to the *king*; their *obedience* to the *law*; (p. 17.) because that law was derived from the *constitution*; which, again, was derived from the *people*, as your lordship has also shewn. (P. 28.) Now, they could not have had *two laws* to obey, nor *two constitutions*, nor could their only law and constitution have been derived from any *other people*, but must have originated from *themselves* alone. They could not, therefore, owe any kind or degree of obedience to any other law, or legislature, than their own; and, consequently, the claim of the British parliament (in which they had neither voice nor

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of the same nature, because I know that they agreed only in the sole circumstance of the respective countries having the same sovereign: I only desire to make those distinctions, without which we cannot argue concerning those several nations, all acknowledging the same prince, without confusion or speaking nonsense.

a participation of power in the smallest degree) to bind them in *any* cases whatsoever, even in those of *navigation* and *trade*, was totally without foundation in the constitution. — The maxim, that “None shall be bound by laws but those who assent,” being as antient and *universal* as nature; || neither circumstances nor accidents can in any wise invalidate or impair it. I am sure that the planting of a colony cannot: for the colonists must carry with them their *human nature*, all its *necessities*, all its *privileges*. Freedom in trade is, doubtless, a right of nature; for it necessarily results from the possession of property. That which is a man’s own, he may barter or sell to any one; and no law to the contrary can be just, except it have the assent of himself, or his *representative in the legislature under which he lives*. If colonization could overturn one constitutional principle, it might all the rest.

|| *Legisl. Rights of Commonalty*, p. 97.

test. If it could debar a man from his right to *freedom in trade*, it might equally deprive him of his right to the security of his *property*, his *liberty*, and his *life*: and there are men who do actually apply the doctrine in this extensive sense; or why have we *taxed* the colonies, why have we *abrogated their free constitutions*, *overturned their judicatures*, *proscribed their commerce*, and, finally, fallen upon them with *fire, sword, and savage barbarities*, because of their disputing our authority? It will presently appear that our claims over the colonies, without carrying them the length of internal taxation, might have been fatal to their liberties, and therefore were unwarrantable.

The foregoing considerations may lead your lordship to perceive that your distinction, between "subjects *within the realm* and subjects *out of the realm*,"

(p. 56.)

(p. 56.) is what the constitution will not justify. The Americans were no otherwise the king's subjects *out of the realm*, than as the Irish or Hanoverians. Now, though they were the subjects of the king, the king never presumed to raise upon them this external *taxation*, by restricting their trade, navigation, and manufactures: but it was the *parliament*, whose subjects, your lordship admits, (p. 65.) they *were not*; and who had, in truth and equity, “no more to do with “them,” *as subjects*, “than the king of “France or the king of Spain had.” (P. 52.) Although, as *kindred and allies*, had they known the value of that double connection, they might have made them infinitely more beneficial to the state, than by any possible exercise of dominion over them.

In pages 30 and 56 you say, my lord, and I agree with you, that “freedom

B. “ in

“ in trade § is a fundamental right of  
 “ the constitution.” But how is it *a*  
*fundamental right*, if any other people or  
 legislature can *of right* take it from you,  
 or keep it from you? Reason, justice,  
 and the constitution, will bear me out in  
 maintaining, that the colonists always  
 had as much right as ourselves to free-  
 dom in trade. That this country took  
 advantage of their original weakness, to  
 seize, by virtue of her own *will and pleasure*, a monopoly of their trade, and  
 that she kept possession of that monopoly  
 till 1764, I very well know: but “ pos-  
 “ session does *not* pass with me,” as it  
 does with Mr. Burke, “ for a title,” (p.  
 51,) in any case where a fundamental  
 right

§ I think it best, however, to avoid all unnecessary ex-  
 pressions of limitation where liberty is concerned: they  
 contract our ideas and confuse the subject. The divi-  
 sions of physical, moral, civil, and religious, are very suf-  
 ficient. There is nothing relating to the rights of  
 freedom in trade but what is comprehended under the  
 head of civil liberty. Trade, within ourselves, must  
 be regulated by *laws*; with other nations, by *treaty*.

right of humanity is in question. I will even admit that there were no designed advantages taken by this country originally: that what was done (*however erroneous in its own nature*) was *thought* just and reasonable by *both* parties: that, for protection given, it was fit an equivalent should be returned: and I grant, likewise, all that has been urged with regard to the facts of *possession* on our part, and *acquiescence* on theirs: ¶ but yet I must maintain that all this will not overturn *a fundamental principle of the constitution, and right of nature.* This restraint upon the commerce of the colonies being

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¶ “ A bad custom, or usage, is to be abolished: “ because, in customs, not *length of time*, but *solidity of reason*, is to be considered.” Co. Lit. 141. Hence it was, that, in my tract of *American Independence, &c.* I endeavoured to urge the necessity of acquiring just and accurate ideas of *our connection* with the colonies, instead of the inconsistent notions which prevailed, of granting an American *magna charta* for all times to come, (Appendix, p. 5,) and of establishing with them *a grand British league and confederacy.* (Postscript, p. 32, 40.)

the sole act of *our* legislature, an *imposition* of an *extraneous* power was always, in fact, a violation of right and equity. In order to its having been equitable and obligatory, it ought to have been agreed upon in *treaty*; the colonies, as *free* and *independent contracting parties*, *voluntarily engaging themselves* to perform a certain condition for a suitable consideration.

The houses of lords and commons, we know, have frequent *conferences*, for treating upon and adjusting points in dispute between them concerning their respective rights and privileges, which neither of them think fit to hold and have decided at the will of the other. It is this parliamentary, this liberal, mode of proceeding, that ought to have been adopted, by the two houses, jointly, on one part, and the American assemblies, collectively, on the other part; the king, as equally related to both parties, standing

ing neuter, as he does in all the conferences here between the two houses.

I have already said, that "Trade, " within ourselves, must be regulated "by *laws*; with other nations, by *treaty*:" it remains, then, only to determine, whether the American colonies are distinct nations from Great Britain, having legislatures of their own; or whether they, together with Great Britain, form only one nation, living under one legislature; and your lordship very justly tells me, p. 65, that *they* are not subject to *our* legislature: it should follow, then, that *our* legislature can have no right to regulate *their* trade.

I do not forget all the jargon that has been used about grants and charters, and mother-country; but, as I never thought that mankind had need of charters for leave to wear their noses; or that our mothers

mothers had any right to put out one of our eyes, or even to cut off one of our fingers; so I confess I paid no regard to those solemn nonsenses, but always ventured to speak of *American* liberty precisely in the same terms as of *British* liberty;\* and upon the same principle I should maintain, that the people of France, Turkey, and China, and every nation upon God's earth, have a right to a full and entire freedom.

One grand error, which Englishmen in general have fallen into, has been to consider and to treat of our late connection with the colonies, and the old practice of government relative thereto, as a constitutional arrangement, a wise and equitable system of policy: whereas it was, in some material points, an unconstitutional

\* Letter to E. Burke, esq. subjoined to American Independence the Interest and Glory of Great Britain, p. 6, 7.

stitutional plan ; a crude, imperfect, undefined, and undefineable, scheme, big with the seeds of confusion and disorder. It was not the effect of sufficient fore-thought and complete ideas of our constitution, or it might have continued an harmonious connection to the end of time :† but it was the child of carelessness and confidence, affection and mutual interest ; and its grand defect, — *that of the colonies not having an acknowledged independency, which is an indispensable requisite to a state in which there is a complete legislature*, — hath, at length, produced all the mischief which we have *beheld* ; and laid a foundation, I fear, for severe calamities that we have yet to *feel*. — Mark here, my lord, I entreat you, the fatal effects, the sure, though at first un-seen, consequences of that doctrine of hell, — *expediency*. While this besotted country was pampering herself upon the monopoly

† Amer. Indep. 64—72, and Postscript, 32—48.

monopoly of American commerce, who thought a day was coming when she would have to pay for it with interest? who dreamt that the millions it produced in a century would so very soon be spent upon it in two or three campaigns? who, but allowed that such a monopoly was *extremely expedient*? — But the possession of this monopoly, (taken by *force*, and held *unjustly*,) together with some other of the rotten fruits of *expediency*, which I could name, filling us with avarice and venality, with pride and arrogance, with injustice, violence, and tyranny, are now in the end making us a terrible example to mankind, of a nation punishing itself by the insanity of its counsels and its own wicked hands, in order to justify the irreversible decrees of Providence. How can they be truly the advocates of injured America, who, even to this moment, insist upon this being *our right*? And how much less, again, they who obstinately persist

persist in denying demonstration, by defending the *Declaratory-act*, another most unhappy child of *expediency*? of a short-sighted, unwise, dishonest, <sup>†</sup> expediency!

C expediency !

† Let not this expression shock lord Rockingham and his friends more than it ought to do. His intentions, I grant, might have been very good, and the effect shewed that *America was satisfied* with the repeal of the stamp-act, and did not think the pretensions of the other worth her notice, so long as they should not be acted upon. But that *America was satisfied* was not sufficient; *truth and rectitude* ought also to have been satisfied: on no other principles can there be any *prudence or safety* in our actions. Now the very office of this unfortunate bill was to declare, and enact, in the face of mankind, AN UNTRUTH: As a *man*, his lordship, I might answer for it, could not have brought himself to have asserted an untruth on any pretext of *expediency*: no, not to have saved his life:—and why?—because it would have been base and dishonourable. Has God, then, given one law to men, and another to ministers? Can the same action deservedly ruin the fame of an individual member, and yet be right and honourable in the whole house of parliament?—No, it assuredly cannot: and God has not only implanted a sense of right and wrong in the breast of man for his security against immorality, but, seeing the necessity of giving it the most *absolute* and *universal* authority, in order to prevent our own *reason* from misleading us, he has made it an express declaration, in the revelation of his will,

pediency ! When will ministers of state learn to trust in the declarations of God ?

will, that “*the condemnation is just of those, who do evil that good may come.*” As a minister, therefore, it was equally incumbent on his lordship to have strictly obeyed the moral law. I know but too well that this is a doctrine hard to be swallowed by statesmen ; and that it is said there are such amazing difficulties and hidden obstacles in the way of every minister, that *he cannot always do what he knows to be right, but must sometimes do that which he knows to be wrong.* Shocking as this assertion appears, I acknowledge that, *in the present state of things in this country, it is true*; but I must still maintain that it affords no justification :—because the dilemma is of the minister’s own making ;—because the government of this injured, this insulted, this ruined, country, is systematically carried on, *under all administrations, by CORRUPTION.*—A system this, for its folly as well as its iniquity, which is a disgrace to rational beings, and by means of which, the sorriest driveller in the kingdom, were he a prime minister, might make his will the law.

In defence of the declaratory-act it is said, that, had it not been agreed to by Lord Rockingham, as a condition for his opponents’ giving their assent to the repeal of the stamp-act, ‘an immediate war with America was inevitable.’ To this I must reply, that nothing short of *inspiration from heaven* could possibly have made that certain to any man : and, though it even had been *fore-known of a certainty*, yet nothing short of a *positive command from heaven* to dispense with the

God? When will they be taught that *daring to do right*, be appearances what they may, is the only wisdom?

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*the law of God* could have justified the minister in setting up an **UNTRUTH** as a **LAW**; but it was his duty to have held stedfastly to truth and justice, and to have been fearless of the consequences. Now it is very material to remark, that the *ill consequences*,—*war and dis-union*,—which he thought to avoid by this measure of *state-expediency*,—this *little wrong*,—this *trifling evil*,—have nevertheless followed: and the good consequences,—*peace and reconciliation*,—which he hoped to bring about, have not been secured. Stubborn *rectitude*, thou couldst not have been a worse politician! *Expediency*, thou art certainly a deceiver!—Nay, the very *condition*, on which the two acts, like rabbits, a good one and a bad one, were coupled together, proved to be *a snare*, and the marquis fell into it: the declaratory-act had not long been printed off before his ministerial heels were tripped up, and this very act, containing *every principle* they wanted, made the *immediate engine*, in other hands, of doing effectually that very mischief he had laboured to prevent. It is, I maintain it, with this act, as their *grand engine*, that they have already done so much mischief, and are still doing it with a vengeance. *Expediency*, thou art a traitor; and henceforth let no honest man put his trust in thee!

Now, had lord Rockingham and his friends, in their trying situation, when the king's friends divided against the king's minister, turned their thoughts towards

Let it, however, be some small consolation to us, that our errors and misfortunes will

wards the principles of *rectitude* instead of those of *expediency* ; and upon canvassing, as was their duty, the title of Great Britain to her extraordinary claims over America ; and, finding them *absolutely subversive of the constitution*, as they certainly are :—had they then acted accordingly, and upon the sound foundation of *truth* and *justice* ; had they been firm and inflexible in maintaining the *rights* and *liberties* of the colonists, they might, in all human probability, have actually prevented this iniquitous war, by taking away *its foundation*, which lay solely in a few logical quibbles upon words, and in the *absurd prejudices of the people*, which none but a few obscure insignificant persons, like myself, attempted to remove, but which would have vanished, like a morning vapour, before the honest eloquence of a few respectable men in each house of *parliament*. Thus might they have changed the nature of our connection with America from unnatural to natural, from unjust to just, from impolitic and dangerous to wise and safe, from precarious to permanent, and have preserved entire that astonishing bond of partiality and affection to old England, which made every American on that wide continent call this country his **HOME** ; in which single, simple, attractive, word, there was infinitely more binding force than will be found in all the navies, armies, and acts of parliament, which this proud nation can send across the Atlantic.

Perhaps

will serve to instruct futurity in the science of civil government, and tend to bestow upon posterity that almost-perfect freedom, which must necessarily result from a government administered according to the true principles of the British constitution, whenever that shall be allowed to bless either this or any other nation.

What I have already said may, perhaps, have proved, that *Great Britain*, i. e. the British parliament, hath no right to make laws for restraining the trade of *America*: but the proof will be

still

Perhaps there never was, in any age or country, a political incident which afforded a more remarkable warning to ministers of state, against adopting any measure, how well-meant, how apparently harmless, how specious soever, on the principle of *expediency* unsupported by *rectitude*, than this of the passing of the *Declaratory-act*. I hope it is now seen in this light by lord Rockingham himself: because, as he bears the character of being a man of integrity, he may, by relinquishing former errors and inadvertences, be hereafter an useful minister to his king and country.

still clearer if we examine the question in another point of view. By the very distinction of *internal taxation* from *external taxation*, which hath been uniformly insisted on by all parties, we must understand, that every restriction upon commerce and manufacture is a *tax*: and the reason is, because it stops money, which, if commerce and manufacture were free, *would come into the pockets* of the people. Nay, in cases where duties were here levied upon the exportation of articles which the colonists were prohibited from getting elsewhere, it was in the direct form of an *internal tax*: such was the twelve-penny, and at present the three-penny, duty upon tea, &c. &c. Now I cannot myself see the great propriety of the above-noticed distinction, nor the use of it,—“ *except to mislead mankind.*” The latter practice is evidently against every constitutional principle of taxation; and

I must

I must needs think also that, to *impose* a restriction upon my trade, *without my consent*, and thereby to prevent money coming into my pocket, is so near akin to the taking it out of my pocket against my will, that it can be no other than *injustice*. This is no metaphysical distinction: it is a practical distinction that comes home to men's pockets, to their feelings, and to their common-sense; and it ascertains one of those rights for which the Americans are *now* in arms.|| If such a levied duty, or such a restriction, be a *tax*, it is very immaterial whether it be *external* or whether it be *internal*: the proper question is, whether it be *legal* or *illegal*? whether it be consistent

with

|| At first they only took arms in defence of Mr. Burke's "*subordinate liberty*:" but our conduct soon convinced them, that they must either submit to a *total slavery*, or they must fight their way to a full and *unlimited freedom*: they have wisely chosen; while our conduct, either with regard to the wisdom of it, or the rectitude, is calculated only to cover us with shame and disgrace.

with freedom, or establishes slavery ? To be legal, it must, firstly, be given and granted by him who pays it, and not once for all and for ever ; but, secondly, he must retain the power of diminishing it, and even of *with-holding* it altogether at any future juncture if he see occasion ; and not only so, but, thirdly, the pocket of him, who is his immediate agent for making this gift and grant, must also be taxed in common with all the other pockets out of which the contribution is to issue : not one of which three requisites to legality is to be found in our mode of *externally* taxing the colonies, by what we call our acts of navigation and regulation of the American commerce.—I laid it down near four years ago as a true principle, and farther reflection has convinced me of its solidity, that planting of colonies and extending of empire are by no means one and the same thing, but totally distinct : the con-

founding

founding of these ideas has been one of the grand causes of our present unhappy condition.\* But your lordship says, (p. 57.) "They surrendered, from the first, " one of the fundamental rights of the "constitution, to wit, freedom in trade. " This they gave up, and this they put "into the *monopolizing* hands of their "brethren here, as the gift of contribu- "tion, for the price of protection." I have elsewhere shewn that "a funda- "mental right of the constitution" (and the constitution in this case is only declaratory of the right of nature) "cannot be "surrendered." ¶ So far as this supposed surrender may have been considered as a *bargain* between the state here, and the first emigrants who had accepted their respective charters, it is certain that no such bargain could have taken place with-

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\* American Independence, p. 22.

¶ Legislative Rights of the Commonalty vindicated, p. 2, 58—60.

out having been void in its own nature, for want of the essential principles of validity. From this country there was only *a vague promise of protection*, without any help or remedy for the colonies, in case of non-performance: and, in return, they are said to have surrendered for ever *a fundamental right of nature*; carrying with it a very heavy contribution of property, and involving in its consequences the liberty of their descendants; for which no possible equivalent can be given. According to this supposed bargain, *we* were to be the sole interpreters respecting this protection and this contribution: *they* had only to listen and to *acquiesce*;— that is to say, *obey*. *They* were to leave themselves wholly at the mercy of our tender consciences, and hold their commerce on the admirable tenure of our “civil “discretion;” while *we*, forsooth, were to carve for ourselves; to be judge, jury, and executioner, over them, in our own cause.

cause. Where, in such a covenant, is the indispensable *quid pro quo*?—Where the equal security to both parties?—Where the legal appeal or remedy in case of dissatisfaction or injury?—As nothing of this kind exists, so the idea of the colonists having, “from the first, “ surrendered their freedom in trade, as “a contribution for the price of protection,” (p. 57,) must be a mistake; for it is totally without any foundation in reason, justice, or the constitution.—But, if, notwithstanding the natural defectiveness and insufficiency of this supposed bargain, the *fact* should be still insisted on, I would gladly know where the *actual covenant* is to be met with, and who were the *parties* to it. I am inclined to imagine, that the words, to which have been given this illegitimate construction, are only to be found scattered here and there in ill-considered expressions and *ipse dixit* senses, through

writings that have not authority competent to the case, and that the idea has only thence originated by implication, instead of having been any where fully, formally, and legally, ascertained. I know of no *treaty* with the colonists by any minister of this country and ratified by parliament; and, as to *acts* of parliament, their authority, as your lordship knows, (p. 65.) extends not so far. They must be totally out of the question; and yet it is *parliament* that is pretended to be, and has thought itself, the party to this covenant: for no one ever dreamed of the *king* having a right to bind the manufactures and commerce of the colonies at his will and pleasure. And, on the other hand, the surrender spoken of would have been an *act* by which no original settler could have bound his descendants, as it would have been contrary to the clearest principles of free government, and the unalienable rights of men. The truth is,

that

that no such covenant could have taken place, for want of equitable principles to give it validity; and that none of the supposed parties could have had powers competent to such an act. True it is, also, that error, prejudice, confusion, and fallacy, have all along been at the bottom of the business, and that we must boldly reject the unsound precedents of ages built on this deceitful foundation, and totally disregard whatever hath been wrongfully practised since the very origin of the colonies, before we can establish just maxims, and act upon constitutional principles.—*Free agency* is an inseparable adjunct to *rationality*, and it is an indispensable moral obligation to assert and maintain it. To surrender a fundamental right is to throw away the powers of self-preservation, and to enslave posterity. If these external taxes, levied through the medium of our laws of trade, had been *just and necessary contributions*,

butions, as your lordship seems to suppose they were, (p. 57,) they ought, as above remarked, to have been *given* and *granted* by the colonists, from time to time, with their own consent, and proportioned by their sole judgement, in such manner as to have had a suitable check and controul over Great Britain, who had the disposal of them, and was, without doubt, accountable for the application of them as much as the king is for the money given and granted him here by the people. Neither had they any such check or controul, nor was their contribution truly *a gift*, as your lordship has apprehended, but was claimed, taken, and used, by us, as *a debt* and *a right*. They *acquiesced*, it is true: and, even since they have had armies to contest their rights, they profffered to continue that *acquiescence*; but this only because they judged it *prudent*, and were determined to shew their moderation:

deration: for they by no means acknowledged the right.

The words of the Congress are, as your lordship has quoted them, (p. 61.)

“ We chearfully consent to the operation  
 “ of such acts of the British parliament, as  
 “ are, *bona fide*, restrained to the regula-  
 “ tion of our external commerce, for  
 “ the purpose of securing the commer-  
 “ cial advantages of the whole empire to  
 “ the mother-country,” &c. &c. Here,  
 indeed, was an opening for a *treaty*, by  
 which a *valid* covenant might have been  
 made between us, for their granting a  
 contribution adequate to the protection  
 we were to afford them; but no such  
 treaty was concluded, no such covenant  
 took place: their offers, including this of  
 acquiescing in our pretended authority to  
 restrain and regulate their commerce,  
 were rejected; and, therefore, if we had  
 not that right before, we have it not  
 now.

now. When I say that a *valid* covenant might have been made on that occasion, I do not mean by having *taken the Congress at their word*; because their offer exceeded what they could possibly have had legal powers to fulfil, except under the limitations I have shewn to be essential to such an act, notwithstanding the instructions of their constituents; || and was evidently the effect of an excess of moderation and prudence, not to say of a pardonable fear. Had we taken advantage of them, our conduct would have been similar to that of a tyrant husband, who extorts the separate property of his wife, by putting her in fear of her life from his rage, or of perpetual ill usage from his brutality.

What we claimed, what we practised, and what, in a course of time, *must* have been the fatal consequences to American liberty, I fear we have not, on this side of

|| *Legislative Rights of the Commonalty*, p. 60.

ef the Atlantic, examined with sufficient impartiality.——We imposed upon their shipping round-about voyages attended with certain loss, (particularly in fruit and other perishables,) dangers, and sometimes shipwreck :— we prohibited them from manufacturing the commodities which *nature had bestowed upon them* :—and we not only compelled them to take our manufactures *only*, but we laid upon those goods what duties *we* thought fit.——A French edict, compelling every wretched housekeeper to buy, of the farmer-general of the taxes, a certain quantity of salt, whether he could use it or not, we have justly reproba-  
ted, as the most aggravated tyranny : but, while such as these were our practices towards the colonists, we had no right to reproach the tyranny of France.——

But this was not all: — we would not even suffer them to take shelter in their own frugality, from the disadvan-

tages of a commerce which kept them always deeply in debt. We constantly influenced his majesty to refuse his assent to every colony-bill that could operate in the nature of a sumptuary law, because of its tendency to diminish our trade. Nor could we even stop here, extravagant as it may seem; but, having passed through all the minor gradations of injustice, and becoming thoroughly corrupted, as is always the case, by the exercise of an arbitrary power, against which there is neither check nor controul, we daringly attempted to rifle their very pockets of their last shilling.\* Surely,

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\* In page 30, your lordship says, in a note: "It may be farther observed, that, as it was not to be supposed that parliaments, *whose rights were precisely the same* with those of the people, could possibly enact laws subversive of those rights; so, the original compact seeming to require no other sanction, no other agreement between the legislative power and the people was ever thought of; but now, CORRUPTION, that self-devouring monster of the state, making fresh covenants necessary, it is to be

a nation thus restricted, thus shackled, thus bound, by people they never saw in their lives ; even leaving out the last article of internal taxation, without any figure of speech, might be said to be enslaved ! And I must ever deny that the

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crown's

" be hoped, that the same *explicit, unequivocal, express,*  
 " contract, which exists between the king and the  
 " people, will soon, very soon, subsist between the  
 " parliament and the people."

If there be this strong necessity for restricting the assumed powers of parliament, in favour of even its *creators*, with whose rights its rights are *precisely the same*; how much more is it necessary to scrutinize its assumed authority over a people, who, far from deputing *this* parliament to legislate for them, have ever delegated *all* their authority to *other legislatures*; and whose rights are so much *at variance* with the rights of *this* parliament, in a great variety of instances, that, by depressing and shackling *their* commerce, the commerce of *its members and their constituents* is advanced and benefitted : or, in other words, that, by keeping the colonists *poor*, they themselves become *rich*? Is not, then, in this case, an *explicit, unequivocal, express, CONTRACT*, become absolutely necessary? — — — CONTRACT, I say, in which the American people shall be *free and independent contracting parties*, in like manner as the people of England have ever been, and ought to be, in contracting either with their kings or their parliaments.

crown's original title to the soil and sovereignty of America, that its grants and charters, and all the other rubbish that hath been produced by way of foundation, could rightfully establish such a slavery, or indeed a subversion of any one "fundamental right of the constitution" and of nature. † The premises *must be false* which lead to such a conclusion.

If the great maxims of our law and constitution, if the fundamental rights of nature, are to be our guides in forming our notion of *the late connection* between this country and her colonies in America,

we

† There is, perhaps, no one political subject upon which there has been written so much nonsense as upon that of the original rights of sovereignty over countries, under the several heads of discovery, occupancy, conquest, and treaty. In one of our modern voyages to the southern hemisphere, an officer very gravely sets his foot upon an island, *full of inhabitants*, and cries : " In the name of king George, I take possession of this island and *all the islands in sight*." — Such are the ridiculous claims upon which kings spill the blood of mankind !

we must necessarily, as I conceive, admit that, *de facto*, it was a servitude on their part, and *an unwarrantable domination* on ours; not to be authorized on any principle of reason and free legislation; and that, *de jure*, it was a right inherent and unalienable in the colonists to have had a full and entire legislative independence, whenever they should have demanded it: so that, when the ministers of this country talk of the *constitutional supremacy* of this kingdom, and the *constitutional dependence* of the colonies, they appear to me to talk arrant nonsense, and consequently it is impossible I should be capable of understanding them.\* Who ever heard of *constitutional tyranny* or *constitutional slavery*? or what Englishman

\* Endless are the absurdities by which the nation hath been deluded throughout the whole business of this unhappy contest: as, *virtual representation*, *external taxation*, *imperial rights*, *parliamentary omnipotence*, and such like phrases, equally a disgrace to common-sense and the constitution.

man will endure to hear the epithet of —*constitutional*— prefixed to the name of any *subversion of the rights of free men?* If I have proved that our navigation-acts and colonial restrictions were *oppressive* and *iniquitous*, I hope I have proved that they **COULD NOT BE** *constitutional*, and that I need not prove that a renewal of them would be *impolitic* and *ruinous*.

If report may be credited, the earl of Chatham is shortly to take upon him the conduct of our dispute with America; and it is given out that he means to rescind those which have been called the *obnoxious acts of parliament*, passed since 1763; and then, retaining only *the navigation-acts and the claim of restriction*, he is to offer those terms to America, together with the alternative of more fire and sword in case of a refusal. Fire and sword they certainly have no relish for; but so much of it as this angry nation can still bestow

bestow upon them, I am persuaded they will accept, rather than any more shake hands with pride, and pollution. A *free* nation, governed by an *uncorrupt* legislature, and offering conditions worthy of *free* men, they would embrace with affection and ardour : but —

There was a time when the name of Pitt would have intimidated the whole house of Bourbon, and might have reconciled the colonists to the mother-country on the terms above mentioned : but that time has been lost ; and the earl of Chatham knows not what he attempts, if he *now* think that America is to be recovered by any conditions short of her rightful independence, or if he flatter himself, that he can either cure the distractions of Great Britain, or shield her from the torrent of calamity which hath almost overtaken her, except by RESTORING THE CONSTITUTION.

Several

Several months have now passed since I addressed the following sentiment to a great personage :—“ But, if the unchristian spirit of vindictiveness,—if the narrow maxims of wordly wisdom, centering always in self,—if those unwise and ungenerous sentiments, that will yield nothing to freedom but of force,—if that *fatal policy*, which depends on *the subtlety of its intrigues*,—be any longer employed, on our part, in this most interesting cause, America is lost for ever!—and far worse than lost!”

We, nevertheless, tried another campaign, and general Burgoyne is coming home with the account of its victories. And time is also to shew whether ‘ *the subtlety of intrigue*’ hath not *very lately* been employed, in order to recover America by the ministerial means of *doing no farther*

*farther justice than could possibly be avoided :* nor will it long be unknown, whether that '*fatal policy*' did not immediately produce, in the French cabinet, resolutions so decisive in favour of American independence, and war with Great Britain, if she persist to oppose it, as are not to be shaken, although lord Chatham should have (as he once had, but now will not have) the heart of every Englishman engaged in the prosecution of a war under his guidance.

I appeal, my lord to your own sound understanding, and to the law of nature in your heart, whether such unnatural and preposterous ties, or such iniquitous claims as those of ours over the colonists, can be justified, although they were to be found on a thousand parchments, and in ten thousand acts of parliament: for I contend, upon the same principles as your lordship contends against like authorities in the

case of negro-slaves, (p. 45 and 46.) that the colonists will find "their manumission" in the constitution of England; which, "maintaining *liberty* and annihilating *slavery*, renders every such act of parliament," grant and charter, "a *tabula rasa*, a blank parchment, without operation, without force, without effect. *It is that constitution which is now resisting the rebellion of acts of parliament,*" and the treason of destroying armies, "against it."

As your lordship so thoroughly despises *mystery* and *expediency*, those sure marks of *faction* and *tyranny*, and have evidently the cause of *liberty* and *truth* sincerely at heart; I doubt not but that you will bestow the most impartial examination upon what I have now offered for your consideration: if I be wrong, I shall be thankful for correction; but, if I shall appear in your lordship's judgement

to

to be right, I will confide in the candour of an honest English nobleman ; not to stand, as some eminent speakers and writers have done, refuted in their doctrines on *fundamental rights of the constitution* without making their retraction as public as their inadvertency ; but to act as becomes a man of honour who stands forth in defence of freedom and his country.

*With much respect and deference,*

*I have the honour to be*

*Your Lordship's*

*Grateful fellow citizen,*

*And most obedient*

*Humble servant,*

February 3,  
1778.

JOHN CARTWRIGHT.

P. S. In American Independence the Interest and Glory of Great Britain, Letter X. and in the Postscript to the same, p. 32—51, I gave, near three years ago, a draught of *a proposed bill*, and the materials for *a grand British league and confederacy*, by which, in all human probability, we might have secured to ourselves so much of a monopoly of the American commerce, as would have been *more* than an equivalent for our naval protection, and this upon *principles of justice and permanency*: but the decree, I fear, was gone forth for our national humiliation and chastisement; so that neither the principles of justice were understood or regarded by a majority of our legislators, nor was even the most palpable good policy comprehended or attended to. Last spring, again, I tendered to his majesty proposals for recovering

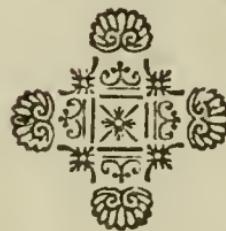
recovering America and saving Great Britain, upon principles,—not of modern *expediency*, serving only to skin over the rotten sores in the constitution, and procure peace for a few deceitful moments, but those—of sound justice and a comprehensive policy, calculated for the radical cure of our *state corruption*, and the closing effectually our breach with America, as well as for guarding against political evils for ages to come.† Other men, in like manner, have endeavoured to open the eyes

† I was even at that time of opinion, that it would have been most wise to have stipulated for a subsidy, to have been paid us in *money*, as our equivalent for protecting the colonists, &c. and to have left their trade entirely free, debarring only foreign bottoms from entering the American ports: this mode would have been simple, and free from any cause of irritation in future. At that period, I have very good reason for believing, a league and confederacy might have been formed upon such a basis: what a treaty might now procure us I will not pretend to say; but I know it is our duty to cease hostilities, to acknowledge the independency of America, and to obtain the best terms we can.

eyes of our rulers to the *true causes* of our miseries and dangers, and the *only means* by which they are to be removed and averted, but all in vain: the infatuation still continues, and we still exhibit all the tokens by which the decline of freedom and prosperity in a state hath ever been characterized.— Whether they are to perish altogether, and tyranny is at length to enjoy a final triumph over the English constitution, or whether the sufferings prepared for us shall work in us a national reformation, and cause the constitution once more to triumph over tyranny, is a question, the solution whereof, it is probable, is not afar off.— But those, who trust that the threatened evils could be averted by the wisdom and virtues of any man whatsoever, without thoroughly expelling CORRUPTION from parliament, imagine a vain

vain thing, and trust in that which would certainly deceive them.

THE END.



## E R R A T U M.

Page 27, line 4, from the bottom, for *have* been gi-  
ven, read *has* been given.

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